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REMARKSResponse to Detailed ActionClaim Rejections - 35 USC 102

The rejection of Claims 1, 2, 4-29, and 31-46 as anticipated by the newly cited Goode et al. ('725) is traversed because Goode et al. does not factually support the reasons for rejection, and in making this statement we do ask the Examiner to notice that the only substantive claim amendment involves a re-writing of Claim 43 (now cancelled) as new Claim 47.

The three independent claims 1, 16, and 28 are distinguished from the reference because those claims recite respectively, "one or more sources providing data relevant to operations of one or more systems of the apparatus that are external to the engine but potentially influential on fueling of the engine", and "one or more sources providing data relevant to operations of the vehicle that are external to the engine but potentially influential on fueling of the engine", and we fail to see those recitations in the reference.

35 USC 132 states in part: "Whenever, on examination, any claim for a patent is rejected .. the Director shall notify the applicant thereof, stating the reasons for such rejection .. etc." The Director's own rule 37 CFR 1.104(b)(2) states in part: "The pertinence of each reference, if not apparent, must be clearly explained ..etc."

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The Action, as read, finds the quoted recitations in Figs. 1-3 without further explanation. The undersigned does not find them in Figs. 1-3.

Because the pertinence of the reference to the quoted recitations is not apparent to the undersigned, and in the absence of clear explanation in the Action, the rejection is non-compliant with rule, and therefore deficient.

In an effort to assist the Examiner in the hope that he will consider it appropriate to withdraw the rejection, the undersigned affirmatively states that Figs. 1-3 of the reference show only an engine control system that has selective modes of governing, one of which is all-speed governing. In other words, Figs. 1-3 show nothing more than such a system. Consequently, the reference lacks the quoted recitations that may generally be characterized as systems that are external to the engine.

It is true that the switch 50 is used to select between different modes of governing by modifying the how the engine is governed by throttle control 40, but it is equally true that switch 50 is disclosed only as a switch that is operable only by the driver of the vehicle for the stated purpose of selecting the type of engine governing. As such, it is part of the engine system and not a system that is external to the engine. Moreover, switch operation is exclusively under the discretion of the driver, not any system external to the engine. Although there is a reference to "other embodiments" at the top of Col. 3 of Goode et al., consideration of the citation to Ebaugh et al. (5,303,163) would lead one to understand that such other embodiments are different means for the driver to make the governing selection, such as by a keypad instead of a devoted switch 52.

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Further distinguishing features involving dependent claims were discussed in the prior amendment, and that discussion is incorporated here by reference.

Claim 47 is offered in place of Claim 43 as a more appropriate definition of the method inherent in the other Claims.

Consequently, withdrawal of the rejection is believed proper and is respectfully requested.

Response to Detailed Action

Claim Rejections - 35 USC 103

Claims 3 and 30 - The remarks above concerning the Claims rejected under 35 USC 102 are incorporated here by reference. The rejection of Claims 3 and 30 is traversed for the same reasons given, and because the secondary reference (Isaac et al. '459) doesn't cure the deficiencies in the primary reference. While Isaac et al. may make reference to possible uses of torque control in a motor vehicle, the rejection makes no showing that the reference teaches that the various systems mentioned can act to change fueling strategy from an all-speed governing one to other than an all-speed governing strategy.

Consequently, it is submitted that the combination does not teach the subject matter of either Claim 3 or 30, and withdrawal of the rejection is therefore respectfully requested.

Conclusion

For reasons presented herein, favorable reconsideration and allowance are respectfully requested.

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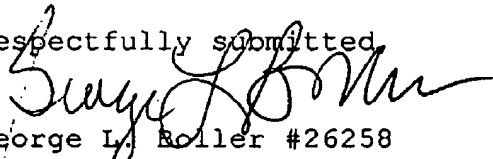
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Please continue to direct correspondence to the attorney of record. However, any questions regarding the content of this paper should be directed to the undersigned.

Contingent Deposit Account Authorization

Although it is believed that no additional claim fee is due in connection with the filing of this paper, any lawful fee determined by the Commissioner to be due with this filing may be charged to Deposit Account No. 14-0603.

Respectfully submitted,


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